
SENATE BILL No. 428

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8; IC 20-5-2-2; IC 20-12-3.2; IC 27-1-39; IC 27-8-5-1; IC 27-13-20.

Synopsis: Health insurance matters. Requires a state educational institution that provides health coverage to the state educational institution's employees to provide the coverage through the state employee health plans. Allows a school corporation to provide health coverage to the school corporation's employees through the state employee health plans. Specifies that coverage under the state employee health plans is available to certain individuals. Provides for the expiration of current provisions governing university employee health plans. Requires the department of insurance to establish and implement a program through which individuals and small employers may purchase group health coverage as a single group. Requires the commissioner of the department of insurance to review and approve health plan rate filings before the rates are used.

Effective: July 1, 2005.

Miller

January 13, 2005, read first time and referred to Committee on Health and Provider Services.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 428

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-6.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 6.7. (a) As used in this section, "state educational**
4 **institution" has the meaning set forth in IC 20-12-0.5-1.**

5 **(b) As used in this section, "state employee health plan" means**
6 **a:**

7 **(1) self-insurance program established under section 7(b) of**
8 **this chapter to provide group health coverage; or**

9 **(2) contract with a prepaid health care delivery plan entered**
10 **into by the state personnel department under section 7(c) of**
11 **this chapter.**

12 **(c) The state personnel department shall allow a state**
13 **educational institution to provide coverage of health care services**
14 **for the employees of the state educational institution under any**
15 **state employee health plan available to state employees.**

16 **(d) A state educational institution that provides health coverage**
17 **for employees of the state educational institution:**

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(1) shall provide the health coverage under a state employee health plan as provided in this section; and

(2) may elect to provide continued coverage under this section upon an employee's retirement or eligibility for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(e) A state educational institution employee who receives coverage of health care services under a state employee health plan under subsection (d)(1) or (d)(2) must:

(1) receive coverage equal to the coverage provided to state employees under the state employee health plan; and

(2) be allowed to choose the state employee health plan under which the state educational institution employee will be covered.

(f) A state educational institution that provides coverage for employees of the state educational institution under this section may elect to pay any part of the employees' premium with respect to the coverage provided under this section.

SECTION 2. IC 5-10-8-6.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.8. (a) As used in this section, "school corporation" has the meaning set forth in IC 20-8.1-1-1.

(b) As used in this section, "state employee health plan" means a:

(1) self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) contract with a prepaid health care delivery plan entered into by the state personnel department under section 7(c) of this chapter.

(c) The state personnel department shall allow a school corporation to provide coverage of health care services for the employees of the school corporation under any state employee health plan available to state employees.

(d) A school corporation that provides health coverage for employees of the school corporation under IC 20-5-2-2(14) may:

(1) provide the health coverage under a state employee health plan as provided in this section; and

(2) elect to provide continued coverage under this section upon an employee's retirement or eligibility for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(e) A school corporation employee who receives coverage of health care services under a state employee health plan under subsection (d)(1) or (d)(2) must:

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(1) receive coverage equal to the coverage provided to state employees under the state employee health plan; and

(2) be allowed to choose the state employee health plan under which the school corporation employee will be covered.

(f) A school corporation that provides coverage for employees of the school corporation under this section may elect to pay any part of the employees' premium with respect to the coverage provided under this section.

SECTION 3. IC 5-10-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The state, excluding state educational institutions (as defined by IC 20-12-0.5-1), may not purchase or maintain a policy of group insurance, except:

(1) life insurance for the state's employees;

(2) long term care insurance under a long term care insurance policy (as defined in IC 27-8-12-5), for the state's employees; or

(3) an accident and sickness insurance policy (as defined in IC 27-8-5.6-1) that covers individuals to whom coverage is provided by a local unit under section 6.6 of this chapter.

(b) With the consent of the governor, the state personnel department may establish self-insurance programs to provide group insurance other than life or long term care insurance for state employees and retired state employees. The state personnel department may contract with a private agency, business firm, limited liability company, or corporation for administrative services. A commission may not be paid for the placement of the contract. The department may require, as part of a contract for administrative services, that the provider of the administrative services offer to an employee terminating state employment the option to purchase, without evidence of insurability, an individual policy of insurance.

(c) Notwithstanding subsection (a), with the consent of the governor, the state personnel department may contract for health services for state employees and individuals to whom coverage is provided by a local unit under section 6.6 of this chapter through one (1) or more prepaid health care delivery plans.

(d) The state personnel department shall adopt rules under IC 4-22-2 to establish long term and short term disability plans for state employees (except employees who hold elected offices (as defined by IC 3-5-2-17)). The plans adopted under this subsection may include any provisions the department considers necessary and proper and must:

(1) require participation in the plan by employees with six (6) months of continuous, full-time service;

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(2) require an employee to make a contribution to the plan in the form of a payroll deduction;

(3) require that an employee's benefits under the short term disability plan be subject to a thirty (30) day elimination period and that benefits under the long term plan be subject to a six (6) month elimination period;

(4) prohibit the termination of an employee who is eligible for benefits under the plan;

(5) provide, after a seven (7) day elimination period, eighty percent (80%) of base biweekly wages for an employee disabled by injuries resulting from tortious acts, as distinguished from passive negligence, that occur within the employee's scope of state employment;

(6) provide that an employee's benefits under the plan may be reduced, dollar for dollar, if the employee derives income from:

(A) Social Security;

(B) the public employees' retirement fund;

(C) the Indiana state teachers' retirement fund;

(D) pension disability;

(E) worker's compensation;

(F) benefits provided from another employer's group plan; or

(G) remuneration for employment entered into after the disability was incurred.

(The department of state revenue and the department of workforce development shall cooperate with the state personnel department to confirm that an employee has disclosed complete and accurate information necessary to administer subdivision (6).)

(7) provide that an employee will not receive benefits under the plan for a disability resulting from causes specified in the rules; and

(8) provide that, if an employee refuses to:

(A) accept work assignments appropriate to the employee's medical condition;

(B) submit information necessary for claim administration; or

(C) submit to examinations by designated physicians;

the employee forfeits benefits under the plan.

(e) This section does not affect insurance for retirees under IC 5-10.3 or IC 21-6.1.

(f) The state may pay part of the cost of self-insurance or prepaid health care delivery plans for its employees.

(g) A state agency may not provide any insurance benefits to its employees that are not generally available to other state employees,

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1 unless specifically authorized by law.

2 (h) The state may pay a part of the cost of group medical and life
3 coverage for its employees.

4 **(i) Coverage under a:**

5 **(1) self-insurance program established under subsection (b) to**
6 **provide group health coverage; and**

7 **(2) contract with a prepaid health care delivery plan entered**
8 **into by the state personnel department under subsection (c);**
9 **is not available to an individual other than an employee who is**
10 **covered under the program or contract and the spouse and**
11 **dependent children of the employee.**

12 SECTION 4. IC 20-5-2-2 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2005]: Sec. 2. In carrying out the school
14 purposes of each school corporation, its governing body acting on its
15 behalf shall have the following specific powers:

16 (1) In the name of the school corporation, to sue and be sued and
17 to enter into contracts in matters permitted by applicable law.

18 (2) To take charge of, manage, and conduct the educational affairs
19 of the school corporation and to establish, locate, and provide the
20 necessary schools, school libraries, other libraries where
21 permitted by law, other buildings, facilities, property, and
22 equipment therefor.

23 (2.5) To appropriate from the general fund an amount, not to
24 exceed the greater of three thousand dollars (\$3,000) per budget
25 year or one dollar (\$1) per pupil, not to exceed twelve thousand
26 five hundred dollars (\$12,500), based upon the school
27 corporation's previous year's average daily membership (as
28 defined in IC 21-3-1.6-1.1) for the purpose of promoting the best
29 interests of the school corporation by:

30 (A) the purchase of meals, decorations, memorabilia, or
31 awards;

32 (B) provision for expenses incurred in interviewing job
33 applicants; or

34 (C) developing relations with other governmental units.

35 (3) To acquire, construct, erect, maintain, hold, and to contract for
36 such construction, erection, or maintenance of such real estate,
37 real estate improvements, or any interest in either, as the
38 governing body deems necessary for school purposes, including
39 but not limited to buildings, parts of buildings, additions to
40 buildings, rooms, gymnasiums, auditoriums, playgrounds, playing
41 and athletic fields, facilities for physical training, buildings for
42 administrative, office, warehouse, repair activities, or housing of

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1 school owned buses, landscaping, walks, drives, parking areas,
 2 roadways, easements and facilities for power, sewer, water,
 3 roadway, access, storm and surface water, drinking water, gas,
 4 electricity, other utilities and similar purposes, by purchase, either
 5 outright for cash (or under conditional sales or purchases money
 6 contracts providing for a retention of a security interest by seller
 7 until payment is made or by notes where such contract, security
 8 retention, or note is permitted by applicable law), by exchange, by
 9 gift, by devise, by eminent domain, by lease with or without
 10 option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or
 11 IC 21-5-12. To repair, remodel, remove, or demolish any such real
 12 estate, real estate improvements, or interest in either, as the
 13 governing body deems necessary for school purposes, and to
 14 contract therefor. To provide for energy conservation measures
 15 through utility energy efficiency programs or under a guaranteed
 16 energy savings contract as described in IC 36-1-12.5.

17 (4) To acquire such personal property or any interest therein as
 18 the governing body deems necessary for school purposes,
 19 including but not limited to buses, motor vehicles, equipment,
 20 apparatus, appliances, books, furniture, and supplies, either by
 21 outright purchase for cash, or under conditional sales or purchase
 22 money contracts providing for a security interest by the seller
 23 until payment is made or by notes where such contract, security,
 24 retention, or note is permitted by applicable law, by gift, by
 25 devise, by loan, or by lease with or without option to purchase and
 26 to repair, remodel, remove, relocate, and demolish such personal
 27 property. All purchases and contracts delineated under the powers
 28 given under subdivision (3) and this subdivision shall be subject
 29 solely to applicable law relating to purchases and contracting by
 30 municipal corporations in general and to the supervisory control
 31 of agencies of the state as provided in section 3 of this chapter.

32 (5) To sell or exchange any of such real or personal property or
 33 interest therein, which in the opinion of the governing body is not
 34 necessary for school purposes, in accordance with IC 20-5-5, to
 35 demolish or otherwise dispose of such property if, in the opinion
 36 of the governing body, it is not necessary for school purposes and
 37 is worthless, and to pay the expenses for such demolition or
 38 disposition.

39 (6) To lease any school property for a rental which the governing
 40 body deems reasonable or to permit the free use of school
 41 property for:

42 (A) civic or public purposes; or

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1 (B) the operation of a school age child care program for
 2 children aged five (5) through fourteen (14) years that operates
 3 before or after the school day, or both, and during periods
 4 when school is not in session;
 5 if the property is not needed for school purposes. Under this
 6 subdivision, the governing body may enter into a long term lease
 7 with a nonprofit corporation, community service organization, or
 8 other governmental entity, if the corporation, organization, or
 9 other governmental entity will use the property to be leased for
 10 civic or public purposes or for a school age child care program.
 11 However, if the property subject to a long term lease is being paid
 12 for from money in the school corporation's debt service fund, then
 13 all proceeds from the long term lease shall be deposited in that
 14 school corporation's debt service fund so long as the property has
 15 not been paid for. The governing body may, at its option, use the
 16 procedure specified in IC 36-1-11-10 in leasing property under
 17 this subdivision.
 18 (7) To employ, contract for, and discharge superintendents,
 19 supervisors, principals, teachers, librarians, athletic coaches
 20 (whether or not they are otherwise employed by the school
 21 corporation and whether or not they are licensed under
 22 IC 20-6.1-3), business managers, superintendents of buildings and
 23 grounds, janitors, engineers, architects, physicians, dentists,
 24 nurses, accountants, teacher aides performing noninstructional
 25 duties, educational and other professional consultants, data
 26 processing and computer service for school purposes, including
 27 but not limited to the making of schedules, the keeping and
 28 analyzing of grades and other student data, the keeping and
 29 preparing of warrants, payroll, and similar data where approved
 30 by the state board of accounts as provided below, and such other
 31 personnel or services, all as the governing body considers
 32 necessary for school purposes. To fix and pay the salaries and
 33 compensation of such persons and such services. To classify such
 34 persons or services and to adopt schedules of salaries or
 35 compensation. To determine the number of such persons or the
 36 amount of services thus employed or contracted for. To determine
 37 the nature and extent of their duties. The compensation, terms of
 38 employment, and discharge of teachers shall, however, be subject
 39 to and governed by the laws relating to employment, contracting,
 40 compensation, and discharge of teachers. The compensation,
 41 terms of employment, and discharge of bus drivers shall be
 42 subject to and shall be governed by any laws relating to

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1 employment, contracting, compensation, and discharge of bus
 2 drivers. The forms and procedures relating to the use of computer
 3 and data processing equipment in handling the financial affairs of
 4 such school corporation shall be submitted to the state board of
 5 accounts for approval to the end that such services shall be used
 6 by the school corporation when the governing body determines
 7 that it is in the best interests of the school corporation while at the
 8 same time providing reasonable accountability for the funds
 9 expended.

10 (8) Notwithstanding the appropriation limitation in subdivision
 11 (2.5), when the governing body by resolution deems a trip by an
 12 employee of the school corporation or by a member of the
 13 governing body to be in the interest of the school corporation,
 14 including but not limited to attending meetings, conferences, or
 15 examining equipment, buildings, and installation in other areas,
 16 to permit such employee to be absent in connection with such trip
 17 without any loss in pay and to refund to such employee or to such
 18 member ~~his~~ **the employee's or member's** reasonable hotel and
 19 board bills and necessary transportation expenses. To pay
 20 teaching personnel for time spent in sponsoring and working with
 21 school related trips or activities.

22 (9) To transport children to and from school, when in the opinion
 23 of the governing body such transportation is necessary, including
 24 but not limited to considerations for the safety of such children
 25 and without regard to the distance they live from the school, such
 26 transportation to be otherwise in accordance with the laws
 27 applicable thereto.

28 (10) To provide a lunch program for a part or all of the students
 29 attending the schools of the school corporation, including but not
 30 limited to the establishment of kitchens, kitchen facilities, kitchen
 31 equipment, lunch rooms, the hiring of the necessary personnel to
 32 operate such program, and the purchase of any material and
 33 supplies therefor, charging students for the operational costs of
 34 such lunch program, fixing the price per meal or per food item. To
 35 operate such lunch program as an extracurricular activity, subject
 36 to the supervision of the governing body. To participate in any
 37 surplus commodity or lunch aid program.

38 (11) To purchase textbooks, to furnish them without cost or to
 39 rent them to students, to participate in any textbook aid program,
 40 all in accordance with applicable law.

41 (12) To accept students transferred from other school corporations
 42 and to transfer students to other school corporations in accordance

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with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

(14) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school contract, school or school related activity, including but not limited to the purchase of insurance or the establishment and maintenance of a self-insurance program protecting such persons against false imprisonment, false arrest, libel, or slander for acts committed in the course of their employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to any property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6 or **IC 5-10-8-6.8;**

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance; to benefit school corporation employees, which may include accident, sickness, health, or dental coverage, provided that any plan of self-insurance shall include an aggregate stop-loss provision.

(15) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(16) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of ~~his~~ **the member's or employee's** duties for or employment with, the school corporation, provided the governing body by resolution determined that such action was taken in good faith. To save any such member or employee harmless from any

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liability, cost, or damage in connection therewith, including but not limited to the payment of any legal fees, except where such liability, cost, or damage is predicated on or arises out of the bad faith of such member or employee, or is a claim or judgment based on ~~his~~ **the member's or employee's** malfeasance in office or employment.

(17) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, its agents, employees, and pupils and for the operation of its governing body, which rules, regulations, and procedures may be designated by any appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(18) To ratify and approve any action taken by any member of the governing body, any officer of the governing body, or by any employee of the school corporation after such action is taken, if such action could have been approved in advance, and in connection therewith to pay any expense or compensation permitted under IC 20-5-1 through IC 20-5-6 or any other law.

(19) To exercise any other power and make any expenditure in carrying out its general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including but not limited to the acquisition of property or the employment or contracting for services, even though such power or expenditure shall not be specifically set out herein. The specific powers set out in this section shall not be construed to limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-5-1 through IC 20-5-6 by specific language or by reference to other law.

SECTION 5. IC 20-12-3.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) For purposes of this chapter, "covered individual" means an individual entitled to coverage under an employee health plan.

(b) For purposes of this chapter, "early intervention services" means services provided to a first steps child under IC 12-17-15-3 and 20 U.S.C. 1432(4).

(c) For purposes of this chapter, "employee health plan" means:

(1) a program of self-insurance established and maintained by a state educational institution (as defined in IC 20-12-0.5-1) to cover the provision of health care services (as defined in

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IC 27-8-11-1) to its employees;

(2) a group contract entered into or renewed by a state educational institution with a health maintenance organization (as defined in IC 27-13-1-19) to provide services to employees of the state educational institution; or

(3) a policy of accident and sickness insurance (as defined in IC 27-8-5-1) issued or renewed on a group basis to a state educational institution to provide coverage for employees of the state educational institution.

(d) For purposes of this chapter, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is a covered individual.

(e) As used in this chapter, "first steps program" means the program established under IC 12-17-15 and 20 U.S.C. 1431 et seq. to meet the needs of:

- (1) children who are eligible for early intervention services; and
- (2) their families.

The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.

(f) This section expires July 1, 2006.

SECTION 6. IC 20-12-3.2-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.1. A state educational institution that provides a program of coverage for health care services for employees or retired employees of the state educational institution shall provide the coverage through a state employee health plan as provided in IC 5-10-8-6.7.**

SECTION 7. IC 20-12-3.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2. (a)** An employee health plan that provides coverage for early intervention services shall reimburse the first steps program for payments made by the program for early intervention services that are covered under the employee health plan.

(b) This section expires July 1, 2006.

SECTION 8. IC 20-12-3.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. (a)** The reimbursement required under section 2 of this chapter is limited to an annual maximum benefit of three thousand five hundred dollars (\$3,500) per first steps child.

(b) This section expires July 1, 2006.

SECTION 9. IC 20-12-3.2-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The
 2 reimbursement required under section 2 of this chapter may not be
 3 applied to any annual or aggregate lifetime limit on the first steps
 4 child's coverage under the employee health plan.

5 **(b) This section expires July 1, 2006.**

6 SECTION 10. IC 20-12-3.2-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The first steps
 8 program may pay required deductibles, copayments, or other
 9 out-of-pocket expenses for a first steps child directly to a provider. An
 10 employee health plan shall apply any payments made by the first steps
 11 program to the employee health plan's deductibles, copayments, or
 12 other out-of-pocket expenses according to the terms and conditions of
 13 the employee health plan.

14 **(b) This section expires July 1, 2006.**

15 SECTION 11. IC 27-1-39 IS ADDED TO THE INDIANA CODE
 16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2005]:

18 **Chapter 39. Joint Health Coverage Purchasing Program**

19 **Sec. 1. As used in this chapter, "small employer" means a**
 20 **private employer with less than seventy-five (75) employees.**

21 **Sec. 2. The department shall, not later than July 1, 2006,**
 22 **establish and implement a program through which two (2) or more**
 23 **individuals and small employers may jointly purchase coverage for**
 24 **the individuals and employees of the small employers as members**
 25 **of a single group through a group policy of accident and sickness**
 26 **insurance (as defined in IC 27-8-5-1) or a group contract (as**
 27 **defined in IC 27-13-1-16).**

28 **Sec. 3. The department may adopt rules under IC 4-22-2 to**
 29 **implement this chapter.**

30 SECTION 12. IC 27-8-5-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The term "policy
 32 of accident and sickness insurance", as used in this chapter, includes
 33 any policy or contract covering one (1) or more of the kinds of
 34 insurance described in Class 1(b) or 2(a) of IC 27-1-5-1. Such policies
 35 may be on the individual basis under this section and sections 2
 36 through 9 of this chapter, on the group basis under this section and
 37 sections 16 through 19 of this chapter, on the franchise basis under this
 38 section and section 11 of this chapter, or on a blanket basis under
 39 section 15 of this chapter and (except as otherwise expressly provided
 40 in this chapter) shall be exclusively governed by this chapter.

41 (b) No policy of accident and sickness insurance may be issued or
 42 delivered to any person in this state, nor may any application, rider, or

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endorsement be used in connection with an accident and sickness insurance policy until a copy of the form of the policy and of the classification of risks and the premium rates, or, in the case of assessment companies, the estimated cost pertaining thereto, have been filed with **and reviewed by** the commissioner. This section is applicable also to assessment companies and fraternal benefit associations or societies.

(c) No policy of accident and sickness insurance may be issued, nor may any application, rider, or endorsement be used in connection with a policy of accident and sickness insurance, until the expiration of thirty (30) days after it has been filed under subsection (b), unless the commissioner gives ~~his~~ written approval to it before the expiration of the thirty (30) day period. **A premium rate may not be used unless the premium rate has been approved in writing by the commissioner.**

(d) The commissioner:

(1) shall, not more than thirty (30) days after the filing required under subsection (b), review the filing; and

(2) may, within thirty (30) days after the filing:

(A) of any form under subsection (b), disapprove the form:

~~(1)~~ **(i)** if, in the case of an individual accident and sickness form, the benefits provided therein are unreasonable in relation to the premium charged; or

~~(2)~~ **(ii)** if, in the case of an individual, blanket, or group accident and sickness form, it contains a provision or provisions that are unjust, unfair, inequitable, misleading, or deceptive or that encourage misrepresentation of the policy; **and**

(B) disapprove a premium rate if the premium rate:

(i) is unreasonable in relation to the benefits provided; or

(ii) charged for a health insurance plan described in IC 27-8-15-1 does not meet the requirements that apply to premium rates under IC 27-8-15.

In determining whether a premium rate is reasonable, the commissioner shall consider underwriting profits or losses, including profits or losses related to investments of unearned premium and loss reserves, of the insurer.

(e) If the commissioner notifies the insurer that filed a form **or premium rate** that the form **or premium rate** does not comply with this section, it is unlawful thereafter for the insurer to issue the form or use ~~it~~ **the form or premium rate** in connection with any policy. In the notice given under this subsection, the commissioner shall specify the

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reasons for ~~his~~ **the commissioner's** disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer.

(f) The commissioner may at any time, after a hearing of which not less than twenty (20) days written notice has been given to the insurer, withdraw ~~his~~ approval of any form **or premium rate** filed under subsection (b) on any of the grounds stated in this section. It is unlawful for the insurer to issue the form or use ~~it~~ **the form or premium rate** in connection with any policy after the effective date of the withdrawal of approval. The notice of any hearing called under this subsection must specify the matters to be considered at the hearing, and any decision affirming disapproval or directing withdrawal of approval under this section must be in writing and must specify the reasons for the decision.

(g) Any order or decision of the commissioner under this section is subject to review under IC 4-21.5.

SECTION 13. IC 27-13-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a)** The rates to be used by a health maintenance organization, including the actuarial assumptions underlying those rates, must be filed with the commissioner for approval and:

- (1) must be established in accordance with actuarial principles for various categories of enrollees and, in the case of a group contract, shall not be individually determined based on the status of an enrollee's health;
- (2) must be developed by an actuary or other qualified person acceptable to the commissioner; and
- (3) may not be excessive, inadequate, or unfairly discriminatory.

(b) The commissioner:

(1) shall, within thirty (30) days after the filing required under subsection (a), review the filing; and

(2) may disapprove a rate if the rate:

- (A) does not meet the requirements specified under subsection (a);**
- (B) is unreasonable in relation to the benefits; or**
- (C) charged for a health insurance plan described in IC 27-8-15-1 does not meet the requirements that apply to premium rates under IC 27-8-15.**

In determining whether a rate is reasonable, the commissioner shall consider underwriting profits or losses, including profits or losses related to investments of unearned premium and loss reserves, of the health maintenance organization.

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SECTION 14. IC 27-13-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsection (b), a document submitted to the commissioner under this chapter is deemed approved when one (1) of the following conditions is met:

(1) The health maintenance organization receives a written communication of approval from the commissioner.

(2) **Except for a rate filing under section 1 of this chapter,** thirty (30) days pass after the commissioner receives the document.

A rate may not be used unless the rate filing under section 1 of this chapter has been approved in writing by the commissioner.

(b) A document is not deemed approved under subsection (a)(2) if, within thirty (30) days after the commissioner receives the document, or within any period of extension granted by the commissioner, the commissioner deposits in the United States mail addressed to the health maintenance organization a written communication to the contrary. Not more than thirty (30) days after receiving the written communication from the commissioner, the health maintenance organization may request a hearing. If, not more than thirty (30) days after receiving the communication from the commissioner, the health maintenance organization requests a hearing, the commissioner shall hold a hearing upon not less than ten (10) days notice to the health maintenance organization.

(c) **At any time after notice and for cause shown, the commissioner may withdraw approval of a rate filed under section 1 of this chapter, effective thirty (30) days after notice of the withdrawal of the approval is issued.**

(d) **When the commissioner:**

(1) **disapproves; or**

(2) **withdraws approval of;**

a rate filing under section 1 of this chapter, the commissioner shall give the health maintenance organization written notice of the reasons for the disapproval or withdrawal of approval. The notice must inform the health maintenance organization that the health maintenance organization may, not more than thirty (30) days after the health maintenance organization receives the notice, request a hearing concerning the disapproval or withdrawal of approval. If the health maintenance organization requests a hearing not more than thirty (30) days after the health maintenance organization receives the notice, the commissioner shall hold a hearing upon not less than ten (10) days notice to the

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1 health maintenance organization.

2 SECTION 15. [EFFECTIVE JULY 1, 2005] (a) The state
3 personnel department, with the budget agency, shall implement the
4 requirements of IC 5-10-8-6.7 and IC 5-10-8-6.8, both as added by
5 this act, not later than July 1, 2006.

6 (b) A state educational institution shall comply with the
7 requirement of IC 20-12-3.2-1.1, as added by this act, on the first
8 date that the state educational institution begins to provide,
9 amends, or renews a program of coverage for health care services
10 for employees or retired employees of the state educational
11 institution after June 30, 2006.

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